

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION
CASE NO.
Jury Trial Demanded**

VICTOR WARD

Plaintiff

v.

**UNITED STATES OF AMERICA
(INTERNAL REVENUE SERVICE)**

Defendants

COMPLAINT

Plaintiff, Victor Ward. ("Ward" or "Plaintiff"), brings this action against Defendants, United States of America, acting by and through its agency and instrumentality, the Internal Revenue Service of the Department of the Treasury (the "IRS"), (sometimes collectively referred to as the "Defendants"), seeking damages for claims arising out of the facts further described in this Complaint, and demands trial by jury of all issues so triable, and states:

PARTIES

1. Plaintiff, Victor Ward, is an individual and citizen of Texas, who currently resides in Brazos County, Texas.
2. The IRS is an agency and instrumentality of the United States of America. It may be served with process by serving (a) the United States Attorney for the Southern District of Texas, or one of the Designated Agents: Pam Anderson (Primary), Cheryl Carey, David Franklin or Sydnie Kempen at 1000 Louisiana St., Ste 2300, Houston, TX 77002 with a copy via certified mail to the civil-process clerk for such U.S. Attorney, (b) the Attorney General of the United States,

U.S. Department of Justice, 950 Pennsylvania Avenue NW, Washington, District of Columbia 20530, and (c) U.S. Internal Revenue Service, 1111 Constitution Avenue NW, Washington, District of Columbia 20224.

JURISDICTION AND VENUE

6. Jurisdiction is proper in this Court under 28 U.S.C. §§ 1331, 1340 and 1346(a)(1).
7. Venue is proper in this District under 28 U.S.C. § 1402(a)(1) and (b), because the Plaintiff resides in the Southern District of Texas.

STATEMENT OF FACTS

8. On or about April 15, 2021, Plaintiff electronically filed a Form 1040 U.S. Individual Income Tax Return for the 2020 tax year with the IRS. The return showed an amount owed of \$813 (See Exhibit A Line 37). The Plaintiff filed a Form 1040-X Amended U.S. Individual Income Tax Return for the 2020 tax year electronically with the IRS on April 26, 2021. The amended 2020 return showed a refund due in the amount of \$2,335 but as of the date of this filing the amended return has not been processed and the Plaintiff has not received the \$2,335 refund. (See Exhibit B and Exhibit C line 22). \$833.91 was withheld from Plaintiff's 2021 tax refund for the 2020 tax year (See Exhibit D Adjustment Code 706). The Plaintiff is due a refund in the amount of \$3,168.91 (\$2,335 + \$833.91) for the tax year 2020.

STATEMENT OF LAW

9. Per 26 USCS § 6402(a) the Secretary shall issue a refund including any interest allowed of any overpayments. 28 USCS § 2675(a) states that an action for money damages against the Government for a wrongful act shall not be instituted unless the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been denied

by the agency. The failure of the agency to make final disposition of a claim within six months after it is filed shall, at the option of the claimant any time, thereafter, be deemed a final denial of the claim for purposes of this section.

CONCLUSION

The Plaintiff filed a claim for a refund with the IRS in the form of his 2020 1040-X and has been wrongfully denied the refund of an income tax overpayment in the amount of \$3,168.91 and respectfully request the Court order the Secretary of the Treasury pay the Plaintiff \$3,168.91 plus any interest allowed as a refund of an overpayment or money damages for a wrongfully denied refund.

April 28, 2022

/s/ Victor Ward
Plaintiff
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